

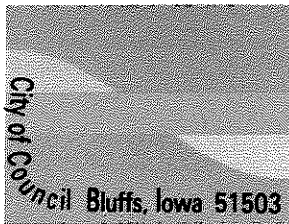
CITY CLERK
(712) 328-4616

AGENDA

**CITY COUNCIL STUDY SESSION
COUNCIL CHAMBERS
MONDAY, January 28, 2008
3:45 P.M.**

Review of Agenda





CITY CLERK
(712) 328-4616

COUNCIL AGENDA, CITY OF COUNCIL BLUFFS, IOWA
REGULAR MEETING JANUARY 28, 2008 7:00 P.M.
COUNCIL CHAMBERS, 2ND FLOOR, CITY HALL
209 PEARL STREET

1. PLEDGE OF ALLEGIANCE

2. CALL TO ORDER

3. PROCLAMATION

25TH Anniversary Year of the Bluffs Arts Council

4. CONSENT AGENDA

- A. Approval of agenda and tape recording of this proceeding be incorporated into official minutes
- B. Reading correction and approval of minutes of the January 14, 2008 regular Council meeting
- C. Resolution 2008-17, ordering City Clerk to publish notice and set a public hearing for February 11, 2008 at 7:00 p.m. on the plans, specifications and form of contract for the Council Bluffs Recreation Complex Improvements Project
- D. Resolution 2008-18, directing the Clerk to publish notice and setting a public hearing for February 11, 2008 at 7:00 p.m. on the plans, specifications, form of contract, and cost estimate for the South 32nd Street Sanitary Sewer Improvements
- E. Resolution 2008-26, intent to release the easement retained on property vacated and conveyed by Resolution No. 94-256 on October 24, 1994, and setting public hearing for February 11, 2008 at 7:00 p.m.
- F. Resolution 2008-29, intent to dispose of approximately 1.6 acres of City property generally located parallel to and immediately adjacent to the eastern edge of property owned by Cohron Ready Mix, LLC and setting public hearing for February 11, 2008 at 7:00 p.m.

5. PUBLIC HEARINGS

- A. Ordinance 5961, amending the zoning map of the City of Council Bluffs by changing the district designation of certain grounds located between Avenue A and Avenue B, from North 28th Street to North 29th Street from its present designation as R-2/Two Family Residential and R-3/Low Density Multi-Family Residential to A-2/Parks, Estates and Agricultural
- B. Ordinance 5962, amending the zoning map of the City of Council Bluffs by changing the district designation of certain grounds located on the south side of Avenue A between North 28th and North 29th Streets in Council Bluffs from its present designation as C-2/Commercial to R-3/Low Density Multi-Family Residential



- C. Ordinance 5963, amending Chapter 15.24 “Supplemental Use and Site Development Regulations” of the Municipal Code of Council Bluffs, Iowa by repealing and reenacting Section 15.24.040 “Fence Regulations” and Section 15.24.070 “Height Exceptions”
- D. Resolution 08-19, approving the plans, specification, form of contract and cost estimate for the 10th Avenue Storm Sewer Improvements
- E. Resolution 08-20, to grant an easement and convey certain property rights in the Pearl Street and South Main Street rights-of-way adjacent to Lot 3, Block 9, Bayliss 1st Addition, City of Council Bluffs

6. ORDINANCES ON SECOND READING:

- A. Ordinance 5964, to amend Title 2 “Revenue and Finance” of the Municipal Code of Council Bluffs by repealing Chapter 2.06 “Partial Property Tax Exemptions for Industrial Property” in its entirety
- B. Ordinance 5965, to amend Chapter 1.68 “Council Bluffs Airport Authority” of the Municipal Code of Council Bluffs by repealing Section 1.68.020 “Board” and enacting a new Section 1.68.020 “Board” to establish a stagger in the member’s terms
- C. Ordinance 5966, to amend Chapter 4.50 “Noise Control” of the Municipal Code of Council Bluffs by repealing Section 4.50.080 “Sound levels by receiving land use” and enacting a new Section 4.50.080 “Sound levels by receiving land use”
- D. Ordinance 5967 to amend Chapter 16.04 “Historic Preservation Commission” of the Municipal Code of Council Bluffs by amending Section 16.04.00 “Appointments”

7. ORDINANCES ON FIRST READING:

- A. Ordinance 5968 to amend the zoning map of the City of Council Bluffs by changing the district designation of certain grounds between the Missouri River and Interstate 29, north of the southerly most corporate limit line in Council Bluffs from its present designation as A-1/Open Space, A-2/Parks, Estates and Agricultural, and I-2/General Industrial, to I-3/Heavy Industrial
- B. Ordinance 5969, to amend Chapter 2.08 “Schedule of Fees” of the Municipal Code of Council Bluffs by amending Section 2.08.070 “Parks and Recreation Fees and Charges”, increasing fees to address the rising costs of maintenance and fuel, and future improvements

8. RESOLUTIONS:

- A. Resolution 07-459, authorizing the Mayor to execute an Agreement with the Historical General Dodge House, Inc. and the Historic General Dodge House Foundation, Inc.
- B. Resolution 08-21, adopting a policy and procedure for allowing intrusions into the public pedestrian way in the C-3 and C-4 Districts
- C. Resolution 08-22, approving a three year labor contract between the City of Council Bluffs and the International Association of Firefighters, Local 15

A. Four applications for liquor license renewal:

- 1) Applebee's Grill, 3000 Dial Drive
- 2) Buck's Express #16, 7 North 16th Street
- 3) Cellar 19 Wine and Deli, 928 Valley View Village
- 2) Mike's Place, 162 West Broadway

B. Three applications for retail cigarette/tobacco permit:

- 1) Darrah's Total, Inc., 3607 9th Avenue
- 2) U-Stop #19, 1928 Sherwood Drive
- 3) U-Stop #20, 701 32nd Avenue

11. CITIZENS REQUEST TO BE HEARD:

12. ADJOURNMENT

RECORD OF PROCEEDINGS

CALL TO ORDER	A regular meeting of the Council Bluffs City Council was called to order by Mayor Tom Hanafan at 7:00 p.m. on Monday, January 14, 2008.
ATTENDANCE	Present: Councilmembers Darren Bates, Lynne Branigan, Matt Schultz, Matt Walsh. Mayor Tom Hanafan Absent: Scott Belt Staff Present: City Attorney Richard Wade, City Clerk Judith Ridgeley.
CONSENT AGENDA	Walsh and Branigan moved and seconded approval of the Consent Agenda as read. Unanimous.
PUBLIC HEARINGS Resolution 2008-03	Held public hearing regarding Resolution 2008-03, granting final plat approval for Hy-Vee at West Broadway Subdivision. Schultz and Branigan moved and seconded approval of Resolution 2008-03. Unanimous
Resolution 2008-04	Held public hearing regarding Resolution 2008-04, granting final plat approval for a 21-lot subdivision to be known as Gethsemane Gardens. Bates and Walsh moved and seconded approval of Resolution 2008-04. Unanimous
ORDINANCES ON SECOND READING Ordinance 5959	Walsh and Branigan moved and seconded approval of Ordinance 5959, amending the Municipal Code, Section 1.40.040. Unanimous Walsh and Bates moved and seconded to waive third reading of Ordinance 5959. Unanimous.
ORDINANCES ON FIRST READING Ordinance 5960	Walsh and Bates moved and seconded the introduction of Ordinance 5960, amending Chapter 9.12 of the Municipal Code. VOICE VOTE: 2 Aye (Bates, Walsh) 2 Nay (Branigan, Schultz) 1 Absent (Belt) Motion failed
Ordinance 5961	Walsh and Bates moved and seconded the introduction of Ordinance 5961, amending the zoning map by changing the district designation of property located between Avenue A and Avenue B from North 28 th Street to North 29 th Street from its present designation of R-2 and R-3 to A-2/Parks, estates and agricultural, and setting public hearing for January 28, 2008 at 7:00 p.m. Unanimous
Ordinance 5962	Branigan and Bates moved and seconded the introduction of Ordinance 5962, amending the zoning map by changing the district designation of property located on the south side of Avenue A between North 28 th and North 29 th Streets from its present designation of C-2 to R-3/Low Density multi-family residential and setting public hearing for January 28, 2008 at 7:00 p.m. Unanimous
Ordinance 5963	Bates and Branigan moved and seconded the introduction of Ordinance 5963, amending Chapter 15.24 of the Municipal Code and setting public hearing for January 28, 2008 at 7:00 p.m. Unanimous
Ordinance 5964	Branigan and Bates moved and seconded the introduction of Ordinance 5964, repealing Chapter 2.06 of the Municipal Code in its entirety. Unanimous

RECORD OF PROCEEDINGS

- Ordinance 5965** Branigan and Bates moved and seconded introduction of Ordinance 5965, amending Chapter 1.68 of the Municipal Code. Unanimous
- Ordinance 5966** Branigan and Walsh moved and seconded introduction of Ordinance 5966, amending Chapter 4.50 of the Municipal Code. Unanimous
- Ordinance 5967** Walsh and Bates moved and seconded the introduction of Ordinance 5967, amending Chapter 16.04 of the Municipal Code by amending Section 16.04.040. Schultz amended the motion to require that registered electors in Pottawattamie County who own property in Council Bluffs be eligible for appointment to the Historic Preservation Commission. Walsh seconded the amendment.
VOICE VOTE ON AMENDMENT: Unanimous
VOICE VOTE ON MAIN MOTION: Unanimous
- RESOLUTIONS**
- Resolution 07-346** Branigan and Walsh moved and seconded approval of Resolution 2007-346, authorizing City officials to endorse financial documents on behalf of the City. Unanimous
- Resolution 07-458** Bates and Walsh moved and seconded approval of Resolution 2007-458, authorizing the Mayor to execute an agreement with Prine LLC to provide concessionaire services for the Dodge Riverside Golf Club and the Council Bluffs Recreational Complex. Schultz amended the motion to require a Request for Proposal to be sent within one week, and adopt the agreement to require payment of 6% of the gross for the life of the contract. The amendment failed due to lack of a second.
- Walsh moved to amend the motion to require the payment of 6% of gross be retroactive; require the difference in the amount owned the City be brought current; to enter into a 4 year contract with Prine LLC, and as tenants; and to have payments made by the 16th of each month to the City Treasurer. Branigan seconded the motion.
VOICE VOTE ON AMENDMENT: 3 Aye, 1 Nay (Schultz), 1 Absent (Belt)
VOICE VOTE ON MAIN MOTION: 3 Aye, 1 Nay (Schultz), 1 Absent (Belt)
- Resolution 07-459** Branigan moved to continue Resolution 07-459 until the regular meeting of January 28, 2008 at 7:00 p.m. to resolve unanswered questions. Bates seconded the motion. Unanimous
- Resolution 08-05** Branigan and Bates moved and seconded approval of Resolution 08-05, adopting a planned commercial development plan for Lot 4, Bluffs Vision Subdivision Replat 1, to construct a restaurant west of South 29th Street between 23rd and 24th Avenues.
ROLL CALL VOTE: 3 Aye, 1 Abstain (Walsh), 1 Absent (Belt)
- Resolution 08-06** Bates and Walsh moved and seconded approval of Resolution 08-06, authorizing the Mayor to execute a real estate contract to acquire a 2.27 acre parcel in the 100 block of South 34th Street as part of the West Broadway Urban Renewal Area Project. Unanimous
- Resolution 08-07** Walsh and Branigan moved and seconded approval of Resolution

RECORD OF PROCEEDINGS

08-07, authorizing the Mayor and City Clerk to execute an agreement with Insituform Technologies for the First Stage Trickling Filter No. 2 42" influent pipe lining. Unanimous.

Resolution 08-08

Branigan and Bates moved and seconded approval of Resolution 08-08, agreement with the Council Bluffs Water Works for water main extension on 10th Avenue in connection with the Public Works Fleet Maintenance Facility. Unanimous.

Resolution 08-09

Branigan and Bates moved and seconded approval of Resolution 08-09, accepting the work of Peterson Contractors, and to authorize the Interim Finance Director to issue a City check in the amount of \$28,345.66. Unanimous

Resolution 08-10

Walsh and Bates moved and seconded approval of Resolution 08-10, Memorandum of Understanding among FHWA, IDOT, Pottawattamie County and the City of Council Bluffs in connection with the environmental impact statement for the East Beltway Project. Unanimous

Resolution 08-11

Branigan and Bates moved and seconded approval of Resolution 08-11, Change Order #2 for the Metro Crossing Sewer Extension Schedule B. Unanimous

Resolution 08-12

Branigan and Bates moved and seconded approval of Resolution 08-12, accepting the work of Leazenby Construction in connection with Metro Crossing Sewer Extension, Phase I Schedule A and to authorize the Interim Finance Director to issue a City check in the amount of \$26,698.74. Unanimous

Resolution 08-13

Branigan and Bates moved and seconded approval of Resolution 08-13, authorizing the Mayor and City Clerk to execute an agreement with TAB Construction for the Stormwater Management, Big Lake Bridge. Unanimous

Resolution 08-14

Branigan and Bates moved and seconded approval of Resolution 08-14, Change Order #2 for the Valley View Drive Extension, Project No. 1, adding \$17,604.18 to the original contract amount. Unanimous

Resolution 08-15

Branigan and Schultz moved and seconded approval of a three-year labor contract between the City of Council Bluffs and the Fraternal Order of Police, Lodge #1, Resolution 08-15. Unanimous

Resolution 08-16

Walsh and Bates moved and seconded approval of Resolution 08-16, authorizing the Mayor to execute an Order Accepting the Acknowledgement/Settlement Agreement from Gas-Mart USA, dba Eddy's 503 for a violation of Iowa Code Section 453A.2(1) Unanimous

MAYOR APPOINTMENTS

Branigan and Walsh moved and seconded to concur with the Mayor's appointments as listed, and to add Alissa Roth to the Historical Preservation Commission. Unanimous

RECEIVE AND FILE ITEMS

Walsh and Branigan moved and seconded to receive and file the following:

RECORD OF PROCEEDINGS

- A. Cash Balance Statement, November 30, 2007
 - B. List of Bills, November 30, 2007
 - C. Five Notice of Claim/Loss
 - D. One application for renewal of rubble dump license
 - E. Two applications for renewal of storage yard license
 - F. Seven applications for renewal of salvage yard license
- Unanimous

CITIZEN'S LETTERS

Received letter Friends of Lake Manawa

APPLICATIONS FOR PERMITS OR CANCELLATIONS

Walsh and Bates moved and seconded approval of the following applications for renewal of liquor license: Andrews Lounge; Red Onion restaurant; Lightening Bowl; Hampton Inn at Ameristar. Unanimous

CITIZENS REQUEST TO BE HEARD

Mr. John LaBounty, 109 Pearl Street, expressed his support for Resolution 2008-01.

ADJOURNMENT

There being no further business to come before City Council, Walsh and Bates moved and seconded to adjourn at 7:29 p.m. Unanimous

The tape recording of this proceeding, though not transcribed, is part of the record of each respective action of the Council. The tape recording of this proceeding is incorporated into these official minutes of this Council meeting as if they were transcribed herein.

Thomas P. Hanafan, Mayor

ATTEST:

Judith H. Ridgeley, City Clerk

City of Council Bluffs Iowa

Office of the Mayor Proclamation

WHEREAS, the Bluffs Arts Council serves to develop and promote the arts in Council Bluffs

WHEREAS, the Bluffs Arts Council has provided this mission for twenty-five years

WHEREAS, the Bluffs Arts Council has collaborated with community partners to produce such events at the Renaissance Faire of the Midlands, Chautauqua, Music in the Park, Autumn in the Bluffs, Festival of Trees and more

WHEREAS, hundreds of volunteers assist each year to make the Bluffs Arts Council programs successful

WHEREAS, the Bluffs Arts Council holds dear its mission to assist in educating in the arts

WHEREAS, the Bluffs Arts Council offers opportunities for adults and children to come together as a community and enjoy unique artistic and cultural experiences.

NOW, THEREFORE, I,
Thomas P. Hanafan, Mayor
of the
City of Council Bluffs, Iowa
do hereby proclaim
2008
as

The 25th Anniversary Year of the Bluffs Arts Council

in the City of Council Bluffs, Iowa, and urge all citizens to acquaint themselves with the opportunities that the Bluffs Arts Council provides: all arts for all people.

IN WITNESS THEREOF, I have caused my signature and seal of the City of Council Bluffs, Iowa to be affixed hereto this twenty-eighth day of January, in the year Two Thousand and Eight.

Thomas P. Hanafan, Mayor

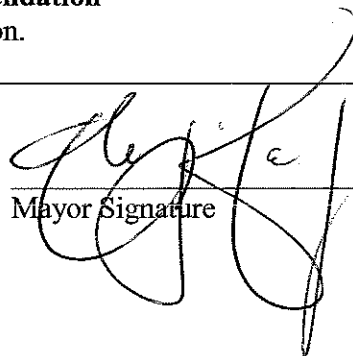
Council Communication

Department: Parks, Recreation and Public Property Department	Ordinance No. Resolution No. <u>2008-17</u>	Date: <u>January 28, 2008</u>
Case/Project No.		
Applicant: Ronald Hopp		
Subject/Title Council consideration of a resolution setting Public Hearing on the plans, specifications, and form of contract for the improvements to the East parking lot and sports field at the Council Bluffs Recreation Complex for February 11, 2008, at 7:00 P.M.		
Background/Discussion The city of Council Bluffs has already made a significant investment in the Council Bluffs Recreation Complex, and there are approximately 23 acres left to be developed in accordance with the master plan. There are currently extreme demands on the existing East parking lot and the soccer fields and expansion is necessary to keep up with demand and to provide relief to the existing soccer fields. On October 22, 2007, the City Council authorized an agreement with HGM Associates Inc., for engineering services for the improvements at the Council Bluffs Recreation Complex. The elements of the improvement include the following: <ul style="list-style-type: none">• Construct addition to east side of existing soccer area parking lot including perimeter sidewalk and landscaping. Parking lot will be 6" of ACC over 6" granular sub-base with curb and gutter, and will provide an additional 150 parking stalls and an additional driveway entrance and entrance gate.• Construct grading fill for remainder of complex site including soccer field areas as well as future concessions/playground area.• Construct full irrigation system for new field areas. A new water main tap and new irrigation controller will be required. New water main tap will also supplement existing irrigation system significantly enhancing system operation.• Provide sidewalks.• Grading and seeding.• Anticipate utility corridors to future concessions/playground area.• The funding source is General Obligation Bonds as outlined in the CIP FY08-23.		
Recommendation I recommend that the City Council adopt the resolution.		

Department Head Signature

4C

Mayor Signature



RESOLUTION NO. 2008-17

RESOLUTION ORDERING THE CITY CLERK TO PUBLISH NOTICE AND SETTING A PUBLIC HEARING ON THE PLANS, SPECIFICATIONS AND FORM OF CONTRACT FOR THE COUNCIL BLUFFS RECREATION COMPLEX IMPROVEMENTS PROJECT.

WHEREAS the city of Council Bluffs desires to make parking lot and sports field improvements at the Council Bluffs Sports Complex, and

WHEREAS, the plans, specifications and form of contract as prepared by HGM Associates, Inc., engineers for the project, are on file in the office of the City Clerk.

NOW, THEREFORE, BE IT RESOLVED
BY THE
CITY COUNCIL OF THE
CITY OF COUNCIL BLUFFS, IOWA

The City Clerk is hereby ordered to set Public Hearing on February 11, 2008, for the Council Bluffs Recreation Complex Improvements project.

ADOPTED
AND
APPROVED January 28, 2008

Thomas P. Hanafan Mayor

Attest:

Judith Ridgeley City Clerk

COUNCIL COMMUNICATION

Department: Public Works
Case/Project No.: FY08-05D
Applicant

Ordinance No.
Resolution No. 2008-18

Council Action January 28, 2008

SUBJECT/TITLE

Council consideration of a resolution setting a public hearing for 7:00 p.m. on February 11, 2008, for the So. 32nd Street Sanitary Sewer Improvements.

BACKGROUND/DISCUSSION

- So. 32nd Street sanitary sewer is a major trunk line with two 30" pipes that serve the Northwest area of the city.
- The So. 32nd Street sanitary sewer was constructed in 1961 and is very poor condition.
- New sanitary sewer has been constructed south of Nebraska Avenue to the I-80 Pump Station.
- This project will construct new sanitary sewer from Nebraska Avenue north to 14th Avenue.
- Future work will construct a new pipe under the UPRR just north of 14th Avenue.
- The project is FY08-05D in the CIP and has a budget of \$500,000 funded from sales tax revenue.
- The project is scheduled for construction in the summer of 2008.

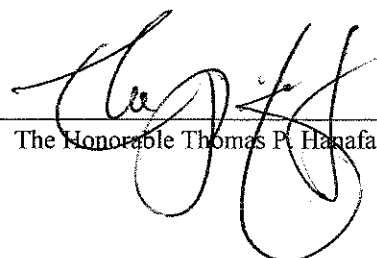


RECOMMENDATION

Approval of the resolution.



Greg Reeder, Public Works Director/City Engineer



The Honorable Thomas P. Hanafan, Mayor

RESOLUTION
NO. 2008-18

**RESOLUTION DIRECTING THE CLERK TO PUBLISH NOTICE
AND SETTING A PUBLIC HEARING ON THE
PLANS, SPECIFICATIONS, FORM OF CONTRACT
AND COST ESTIMATE FOR THE
SO. 32ND STREET SANITARY SEWER IMPROVEMENTS
FY08-05D**

WHEREAS, the City wishes to make improvements known as the
 So. 32nd Street Sanitary Sewer Improvements, within the City,
 as therein described; and

WHEREAS, the plans, specifications, form of contract and cost
 estimate are on file in the office of the city clerk.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the City Clerk is hereby ordered to set a public hearing on the plans, specifications,
form of contract and cost estimate for the So. 32nd Street Sanitary Sewer Improvements,
setting February 11, 2008, at 7:00 p.m. as the date and time of said hearing.

ADOPTED

AND

APPROVED January 28, 2008

Thomas P. Hanafan, Mayor

ATTEST:

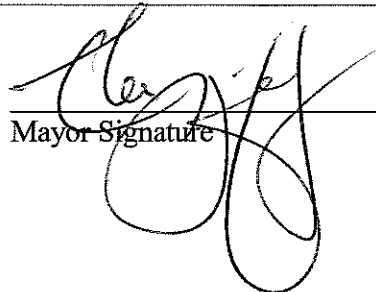
Judith Ridgeley, City Clerk

Council Communication

Department:	Ordinance No.	
Case/Project No.	Resolution No. <u>08-26</u>	Date: 01/28/2008
Subject/Title A RESOLUTION OF INTENT TO RELEASE THE EASEMENTS RETAINED ON PROPERTY VACATED AND CONVEYED BY RESOLUTION NO. 94-256 ON OCTOBER 24, 1994.		
Background/Discussion Resolution No. 94-256 vacated and conveyed the two north-south alleys extending from 8 th to 9 th Avenue between South Main Street and South 6 th Street. Although easements were retained for utilities, no utilities are located on this property. It would be in the best interests of the City of Council Bluffs to release the easements retained by Resolution No. 94-256.		
Recommendation Dispose of easements retained by Resolution No. 94-256.		

Dick Wade, City Attorney

Department Head Signature



Mayor Signature

RESOLUTION NO. 08-26

A RESOLUTION OF INTENT TO RELEASE THE EASEMENT RETAINED ON PROPERTY VACATED AND CONVEYED BY RESOLUTION NO. 94-256 ON OCTOBER 24, 1994.

WHEREAS, Resolution No. 94-256 adopted and approved on October 24, 1994, vacated and conveyed property described as:

The two north/south alleys abutting Lots 1-8, Block 14, Hyatt's Subdivision, and Lots 1-7, Block 2, Riddle's Subdivision to the City of Council Bluffs, Pottawattamie County, Iowa; and

WHEREAS, an easement was granted and reserved in the City of Council Bluffs for the maintenance of public utilities equipment; and

WHEREAS, there are no utilities located in the vacated property; and

WHEREAS, after study and consideration, it is the opinion of this City Council that the release of the utility easements on property described above is in the best interest of the City of Council Bluffs, Iowa.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That this City Council does hereby express its intent to release the utility easement on the above-described property.

ADOPTED
AND
APPROVED January 28, 2008

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

Council Communication

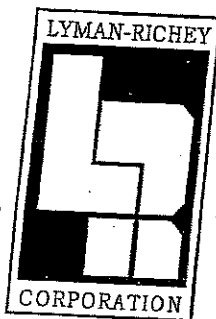
Department: Public Works	Ordinance No. _____	
Case/Project No.	Resolution No. <u>2008-29</u>	Date: <u>January 28, 2008</u>
Applicant.		
Subject/Title		
Disposal of 1.6 acres of City owned land adjacent to Lyman Richey Concrete Plant near the Council Bluffs Police Firing Range.		
Background/Discussion		
<p>Lyman Richey requests the City of Council Bluffs sell one acre of City-owned ground. The ground was purchased by the Sewer Department for land application of sludge.</p> <p>Since the purchase of the ground, the sewer treatment plant has converted to a dewatering process for sludge management. The dewatering process reduces the volume of sludge and allows longer temporary storage on concrete pads instead of in the digesters. The pad storage better accommodates the coordination of land application of sludge on farm fields. In general farm fields can only receive sludge before planting and after harvest.</p> <p>This City site is about 57 acres less about 15 acres occupied by the Police Training Facility. The ground is not critical to the sludge management program but does serve as an emergency back-up for sludge disposal.</p> <p>The area has been significant interest lately for redevelopment. The concrete plant may or may not be compatible with new and potential uses in the area.</p> <p>Consideration should be given to:</p> <ol style="list-style-type: none">1) The kind of user most desirable;2) the adjacent police training facility; and3) the value of the land		
Recommendation		
City Council is requested to decide whether this sale of property is in the best interest of the City.		

Department Head



Mayor Signature

4F



LYMAN-RICHEY CORPORATION

Lyman-Richey Sand & Gravel Company
Ready Mixed Concrete Co.
Central Sand and Gravel Company
Gerhold Concrete Company, Inc.
United Products Company

September 26, 2007

Richard B. Wade
City Attorney
City of Council Bluffs, IA
209 Pearl Street
Council Bluffs, IA 51503

Re: City Property East of 10001 192nd Street, Council Bluffs, IA

Dear Dick:

Please consider this letter an offer to purchase approximately 1.6 acres located parallel to and immediately adjacent to the eastern edge of our existing property located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 32, Township 72 North, Range 43 West of the 5th P.M. in Pottawattamie County, IA. This area extends from our property line approximately 200 feet east.

We are offering to pay the City of Council Bluffs \$10,000/acre based upon the following contingencies:

- (1) We would obtain, at our own expense, a boundary survey showing all improvements, easements, and encroachments.
- (2) We are able to obtain the same sort of zoning for the property as we currently have for our existing property.
- (3) We have access to the property to evaluate it for our intended use of the property.
- (4) If it is necessary to subdivide the property from the City's remaining property, the City would need to complete the subdivision at its own expense.
- (5) We would have a Phase I environmental inspection of the property at our expense. If the inspection discloses the presence of any hazardous substances, the City would have the option to remediate the hazardous substances. Whether or not the City elects to remediate, we would have the option to proceed to close and purchase the property, as is, or to terminate the Agreement. In addition, we would ask the City to provide an environmental representation and warranty common in transactions of this type.

If there are any assessments on the property for public improvements serving and/or adjacent to the property, the assessments would be paid by the City.

We would like to close on the property within 30 days after all contingencies have been met.

Please let us know if the City accepts this offer to purchase. We can then proceed to prepare and execute an appropriate purchase agreement.

Should you have any questions or need additional information, please give me a call. I've enclosed my business card for your reference.

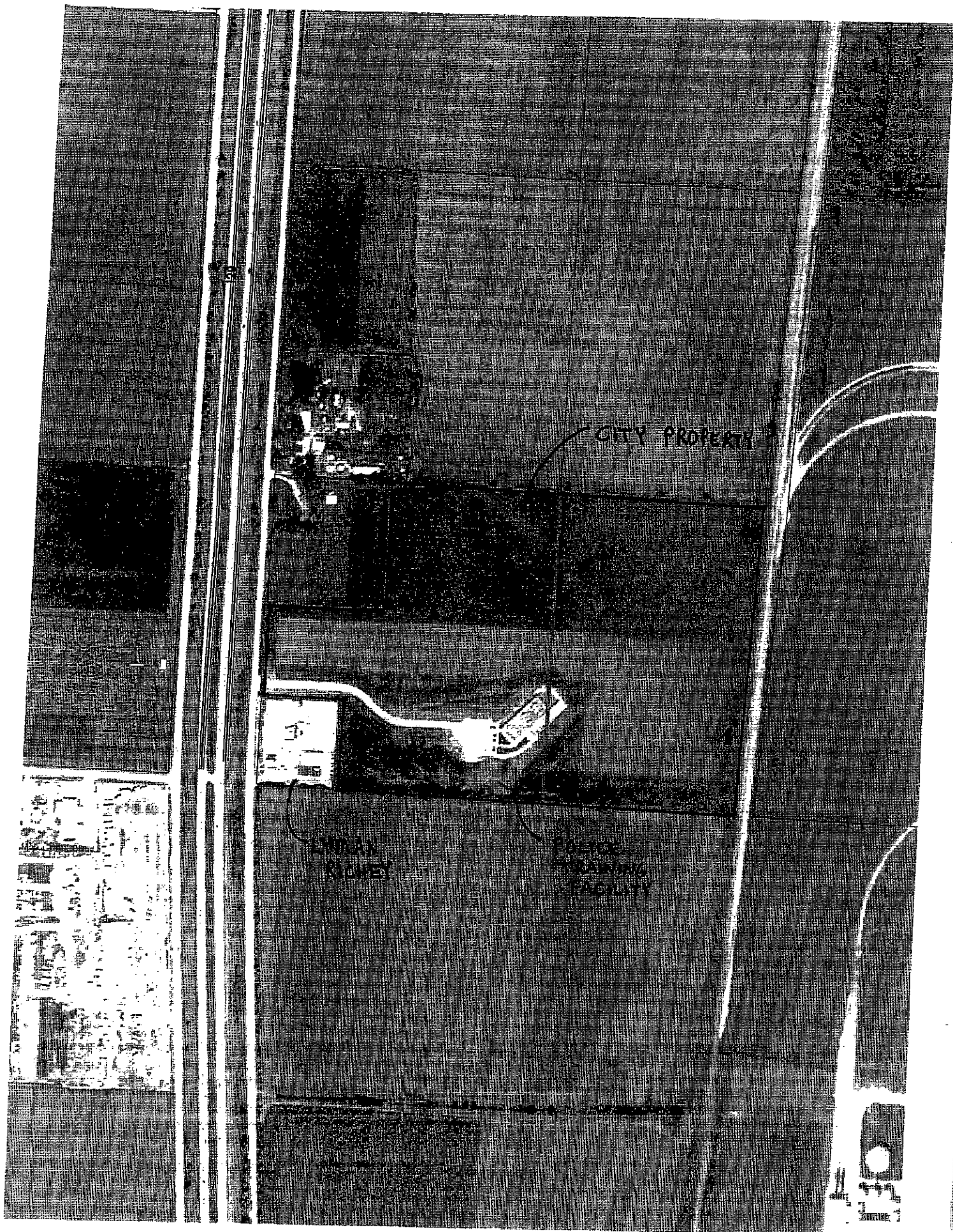
Thank you for your consideration.

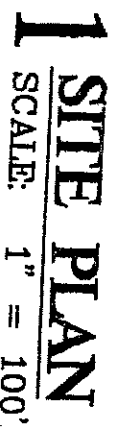
Sincerely,

A handwritten signature in cursive script that reads "Carol White".

Carol White
Real Estate Administrator

cc: Kevin Schmidt





PREPARED BY: City Legal Department, 209 Pearl Street, Council Bluffs, IA 51503
RETURN TO: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RESOLUTION NO. 08-29

A RESOLUTION OF INTENT TO DISPOSE OF APPROXIMATELY 1.6 ACRES OF CITY PROPERTY GENERALLY LOCATED PARALLEL TO AND IMMEDIATELY ADJACENT TO THE EASTERN EDGE OF PROPERTY OWNED BY COHRON READY MIX, LLC.

WHEREAS, Cohron Ready Mix desires to purchase approximately 1.6 acres located adjacent to the eastern edge of their existing property located at 10001 192nd Street in Council Bluffs and has offered \$10,000 per acre for this property; and

WHEREAS, it is in the best interest of the City to sell said land to Cohron to enable them to expand their operations.

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA

That the City hereby declares its intent to dispose of 1.6 acres generally described herein; and

BE IT FURTHER RESOLVED

That said matter be set for public hearing as prescribed by law.

ADOPTED
AND
APPROVED January 28, 2008

Thomas P. Hanafan, Mayor

ATTEST: _____
Judith Ridgeley, City Clerk

C.A. 1/28/08

Council Communication

<p>Department: Community Development</p> <p>Case #ZC-07-018</p> <p>Applicant: Community Development Department</p>	<p>Ordinance No. <u>5961</u></p>	<p>City Council: 1-14-08 Planning Commission: 12/11/07 First Reading: <u>January 14, 2008</u> Second Reading: <u>January 28, 2008</u> Third Reading:</p>
Subject		
<p>Request of the Community Development Department to rezone Block 8, Evan's 2nd Bridge Addition from R-2/Two Family Residential and R-3/Low Density Multi-Family Residential to A-2/Parks, Estates and Agricultural for the proposed Trolley Park. This block is located between Avenue A and Avenue B, North 28th and North 29th Streets as shown on the attached map.</p>		
Background		
<p>The City's Park Master Plan has identified the 28th Street and Avenue A area for a new park. In 1999, the City purchased a large vacant industrial structure at 2822 Ave A (D and D Pallet Company). Then in 2003 the City purchased a second large industrial structure located at 2800 Avenue A (formerly known as the Bus Barn). Both structures have been demolished. The remediation of the underground contamination associated with these two industrial structures was performed in 2006. The City has recently acquired the two remaining (residential) structures on the block which will be demolished within the next 30 days. The development of a new neighborhood park (Trolley Park) on this block and a new 12 lot single family development (Porter's Park Side Subdivision) directly to the north are currently underway. These redevelopment activities are a positive influence on this neighborhood.</p> <p>Surrounding land use is mainly residential in nature. A commercial use, Hatcher Body Shop, is located at the southwest corner of Avenue and North 28th Street. Surrounding zoning is shown on the attached map.</p> <p>There has been no response from any property owner within 200 feet.</p>		
Discussion		
<p>In 1928 and 1965, this block was zoned Light Industrial and Wholesale Manufacturing respectively. The 1972 Zoning Map indicates that the northwest corner of the block was rezoned to R-2/Two Family Residential. In 1999, the remainder of the property was rezoned to R-2 and R-3/Low Density Multi-Family Residential.</p> <p>The proposed rezoning will allow this block to be developed into a park as identified in the City's Park Master Plan. A layout of the proposed park is attached.</p>		
Recommendation		
<p>The Community Development Department recommends rezoning Block 8, Evan's 2nd Bridge Addition from R-2/Two Family Residential and R-3/Low Density Multi-Family Residential to A-2/Parks, Estates and Agricultural.</p>		
Public Hearing		
<p>Gayle Malmquist, Community Development Department appeared before the Planning Commission in favor of the request. No one appeared before the Planning Commission in opposition.</p>		
Planning Commission to City Council		
<p>The Planning Commission recommends rezoning Block 8, Evans's 2nd Bridge Addition from R-2/Two Family Residential and R-3/Low Density Multi-Family Residential to A-2/Parks, Estates and Agricultural.</p>		
<p>VOTE: Aye 9 Nay 0 Abstain 0 Absent 1 Vacant 1 Motion Carried.</p>		
<p>Attachments: Map showing proposed rezoning area and surrounding zoning and the park layout plan. Prepared By: Rebecca Sall, Planning Technician, Community Development Department.</p>		

5A

VBA

Prepared by: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, IA 51503 (712) 328-4620
Return to: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

ORDINANCE NO. 5961

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF COUNCIL BLUFFS, IOWA, AS ADOPTED BY REFERENCE IN SECTION 15.02.040 OF THE 2005 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY CHANGING THE DISTRICT DESIGNATION OF CERTAIN GROUNDS, PREMISES AND PROPERTY LOCATED BETWEEN AVENUE "A" AND AVENUE "B", FROM NORTH 28TH STREET TO NORTH 29TH STREET IN COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, FROM ITS PRESENT DESIGNATION AS R-2/TWO FAMILY RESIDENTIAL AND R-3/LOW DENSITY MULTI-FAMILY RESIDENTIAL TO A-2/PARKS, ESTATES AND AGRICULTURAL, AS SET FORTH AND DEFINED IN CHAPTERS 15.09, 15.10, AND 15.05 OF THE MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That the Zoning Map of the City of Council Bluffs, Iowa, as adopted by reference in Section 15.02.040 of the Municipal Code of the City of Council Bluffs, Iowa, be and the same is hereby amended by changing the district designation of certain grounds, property and premises located between Avenue "A" and Avenue "B", from North 28th Street to North 29th Street, as shown on Attachment "A", and legally described as follows:

Block 8, Evan's 2nd Bridge Addition, Council Bluffs, Pottawattamie County, Iowa,

from its present designation as R-2/Two Family Residential and R-3/Low Density Multi-Family Residential to A-2/Parks, Estates and Agricultural, as set forth and defined in Chapters 15.09, 15.10, and 15.05 of Title 15 "Zoning" of the 2005 Municipal Code of Council Bluffs, Iowa.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. Effective Date. This ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

PASSED
AND
APPROVED _____

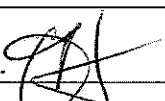

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

FIRST CONSIDERATION: January 14, 2008
SECOND CONSIDERATION: January 28, 2008
PUBLIC HEARING: January 28, 2008
THIRD CONSIDERATION: _____

Planning case No. ZC-07-018

Council Communication

<p>Department: Community Development</p> <p>Case #ZC-07-019</p> <p>Applicant: Community Development Department</p>	<p>Ordinance No. <u>5962</u></p>	<p>City Council: 1-14-07 Planning Commission: 12/11/07 First Reading: January 14, 2008 Second Reading: <u>January 28, 2008</u> Third Reading:</p>
Subject		
<p>Request of the Community Development Department to rezone Lots 3 through 9, Block 1, Evan's Bridge Addition from C-2/Commercial to R-3/Low Density Multi-Family Residential. These lots are located on the south side of Avenue A, between North 28th and North 29th Streets, as shown on the attached map.</p>		
Background		
<p>The Community Development Department is requesting rezoning of the above described property in order to rezone a vacant, City owned lot (Lot 4) to a residential classification so that it can be sold and developed with a residential structure. The proposed rezoning will also bring five existing residential structures into compliance with the Zoning Ordinance.</p> <p>Land uses surrounding the subject property include various commercial uses to the east and south, residential use to the west and vacant property to the north. Surrounding zoning is shown on the attached map.</p> <p>One property owner included in the rezoning is opposed. Charles Peterson, 2833 Avenue A, wishes his property to remain C-2 because he runs a business out of his home. There has been no response from any property owner within 200 feet.</p>		
Discussion		
<p>In 1928 and 1965, this block was zoned Light Industrial and Wholesale Manufacturing respectively. The block was rezoned to C-2/General Commercial in 1999.</p> <p>The proposed rezoning will bring five residential uses into compliance with the Zoning Ordinance and will allow the vacant City owned lot to be developed with a residential structure.</p> <p>The proposed rezoning is an extension of the existing R-3 zoning to the northeast and northwest and is consistent with the future land use map of the 1994 Comprehensive Plan.</p>		
Recommendation		
<p>The Community Development Department recommends rezoning Lots 3 through 9, Block 1, Evan's Bridge Addition from C-2/Commercial to R-3/Low Density Multi-Family Residential.</p>		
Public Hearing		
<p>Gayle Malmquist, Community Development Department appeared before the Planning Commission in favor of the request. No one appeared before the Planning Commission in opposition.</p>		
Planning Commission to City Council		
<p>The Planning Commission recommends rezoning Lots 3 through 9, Block 1, Evan's Bridge Addition from C-2/Commercial to R-3/Low Density Multi-Family Residential.</p>		
<p>VOTE: Aye 9 Nay 0 Abstain 0 Absent 1 Vacant 1 Motion Carried.</p>		
<p>Attachments: Map showing proposed rezoning area and surrounding zoning.</p> <p>Prepared By: Rebecca Sall, Planning Technician, Community Development Department.</p> <div style="text-align: right;"> </div>		

Prepared by: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, IA 51503 (712) 328-4620
Return to: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

ORDINANCE NO. 5962

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF COUNCIL BLUFFS, IOWA, AS ADOPTED BY REFERENCE IN SECTION 15.02.040 OF THE 2005 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY CHANGING THE DISTRICT DESIGNATION OF CERTAIN GROUNDS, PREMISES AND PROPERTY LOCATED ON THE SOUTH SIDE OF AVENUE "A" BETWEEN NORTH 28TH AND NORTH 29TH STREETS IN COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, FROM ITS PRESENT DESIGNATION AS C-2/COMMERCIAL TO R-3/LOW DENSITY MULTI-FAMILY RESIDENTIAL, AS SET FORTH AND DEFINED IN CHAPTERS 15.15 AND 15.10 OF THE MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That the Zoning Map of the City of Council Bluffs, Iowa, as adopted by reference in Section 15.02.040 of the Municipal Code of the City of Council Bluffs, Iowa, be and the same is hereby amended by changing the district designation of certain grounds, property and premises located on the south side of Avenue "A", between North 28th and North 29th Streets, as shown on the attachment, and legally described as follows:

Lots 3 through 9, Block 1, Evan's Bridge Addition, Council Bluffs, Pottawattamie County, Iowa,

from its present designation as C-2/Commercial to R-3/Low Density Multi-Family Residential, as set forth and defined in Chapters 15.15 and 15.10 of Title 15 "Zoning" of the 2005 Municipal Code of Council Bluffs, Iowa.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. Effective Date. This ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN

Mayor

Attest:

JUDITH RIDGELEY

City Clerk

FIRST CONSIDERATION: January 14, 2008

SECOND CONSIDERATION: January 28, 2008

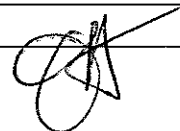
PUBLIC HEARING: January 28, 2008

THIRD CONSIDERATION: _____

Council Communication

Department: Community Development Case #ZT-07-006 Applicant: Council Bluffs Industrial Foundation	Ordinance No. <u>5963</u>	Planning Commission: 12-11-07 First Reading <u>08-01-14</u> Second Reading <u>08-02-28</u> Third Reading
Subject/Title Amend Chapter 15.24 'Supplemental Use and Site Development Regulations' of the Municipal Code (Zoning Ordinance) by amending §15.24.040 'Fence Regulations' and clerical/typographical corrections in §15.24.070 'Height exceptions' as shown in Attachment 'A'.		
Background/Discussion The Council Bluffs Industrial Foundation is requesting an amendment to Title 15 of the Municipal Code to allow fencing on industrial sites of 50 acres or more to be 10' high in order to increase security and privacy. The intent is to make it harder for an individual to cross over a taller fence. The current maximum height is 8'. The requested amendment to §15.24.040 follows: 02. General requirements for open space/recreation and industrial districts. (a) A fence placed in any yard shall not exceed eight feet in height, <u>except when the parcel is greater than 50 contiguous acres. If the parcel is greater than 50 contiguous acres, fence height shall be allowed up to ten feet and must be black vinyl coated chain link material, with no barbed wire or concertina wire on the top of the fence.</u> Attachment 'A' shows the recommended amendment suggested by the Community Development Department. It is consistent with the request, although it does not require black for the vinyl coating. A ten foot tall fence could not include 'sharp or pointed projectiles or contain barbed wire strands', however a fence from 6' to 8' in height could have such a security fence as permitted in Item (d) of that section. References to the I-3/Heavy Industrial District are added as shown. When this section was last amended in 1997, the I-3 District did not exist. The change to §15.24.070 'Height Exceptions' corrects an error. The intent of that section is to exempt those structures from the height restrictions. The current language is not correct. New text is <u>underlined</u> . Text to be removed is struck through .		
Recommendation The Community Development Department recommends amending Chapter 15.24 'Supplemental Use and Development Regulations' in Title 15 of the Municipal Code (Zoning Ordinance) as shown in Attachment 'A'. Public Hearing Ron Tekippe, representing Council Bluffs Industrial Foundation, appeared before the Planning Commission in favor of the request. No one appeared in opposition to the request. Planning Commission Recommendation The Planning Commission recommends approval of the amendments to Chapter 15.24 'Supplemental Use and Site Development Regulations' in the Municipal Code (Zoning Ordinance) as shown in Attachment 'A'. VOTE: AYE 9 NAY 0 ABSTAIN 0 ABSENT 1 VACANT 1 Motion: Carried		
Attachment: Attachment 'A'		
Prepared by: Gayle M. Malmquist, Development Services Coordinator		

5C



Chapter 15.24

SUPPLEMENTAL USE AND SITE DEVELOPMENT REGULATIONS

Sections:

- 15.24.040 Fence regulations
15.24.070 Height exceptions

15.24.040 Fence regulations. Fences, including masonry walls, vegetation, ornamental iron, chain link, open wood, solid wood or metal, forming a physical barrier, placed on private property, used for any purpose shall conform to the following requirements:

01. General requirements for all zoning districts.
 - (a) No fence placed on any lot shall project over the property line. No fence or obstruction shall be placed in the public right-of-way.
 - (b) The height of a fence shall be measured from the grade on which the fence is placed.
 - (c) The finished side of any fence shall be directed toward the street right-of-way and adjoining properties.
 - (d) No fence or any other obstruction shall be placed within an equilateral triangle having sides of 35 feet each running along the edge of the pavement, or curb if present, of each abutting street. The apex of this triangle shall be at the point of the intersection of the edges of the pavement or curbs of such streets when extended out to a point.
 - (e) No fence shall be placed within 3 feet of a fire hydrant. No fence shall block visibility or access to a fire hydrant from the street.
02. General requirements for open space/recreation and industrial districts.
 - (a) A fence placed in any yard shall not exceed 8 feet in height.
 - (b) In I-2 and I-3 Districts when the parcel is 50 contiguous acres or more, a fence not to exceed 10 feet in height is permitted in the interior, street side and rear yards. In the front yard, the height of the fence shall not exceed 8 feet unless its placement meets the setback requirements for structures. Fencing material for a 10 foot tall fence shall be limited to vinyl coated chain link material with no sharp or pointed projections or barbed wire strands permitted.
 - (bc) Barbed wire fences 0 to 6 feet in height are permitted in A-1 and A-2 districts for agricultural uses only.
 - (ed) Security fences with sharp or pointed projections or containing barbed wire strands are allowed in the A-2, I-1, and I-2 and I-3 Districts if placed atop a conforming fence of at least 6 feet in height, with total fence height not to exceed 8 feet.
 - (de) Electrically-charged fences located within the boundaries of a conforming fence are permitted in A-1, A-2, I-1, and I-2 and I-3

districts for agricultural uses only.

03. General requirements for residential and commercial districts.
- (a) In a front yard or a street side yard, the height of a fence shall not exceed 4 feet, unless its placement meets the setback requirements for principal and accessory structures.
Exception: Ornamental iron fences located in front or street side yards may exceed 4 foot in height, but are limited to six feet in overall height.
 - (b) No solid fence shall be placed within a front yard or street side yard which creates a safety hazard by obstructing the clear view of pedestrians or vehicles.
 - (c) In an interior side yard or rear yard, the height of a fence, excepting vegetation fences, shall not exceed 6 feet. Fences in residential areas proposed to exceed 6 feet in height shall be reviewed on a case by case basis by the mayor or designee.
 - (d) Security fences with sharp or pointed projections or containing barbed wire strands may be permitted in a C-2 district when placed on top of an otherwise conforming fence, if the following conditions are met:
 - (1) the site shall not abut any residential district; and
 - (2) the use shall comply with all requirements for conforming uses and the site development regulations in a C-2 district.
04. Required fences.
- (a) A fence shall be required where any conforming commercial or industrial use abuts a residential district. The fence shall be provided at the abutting side and rear property lines. A fence shall also be required for any open storage area in an industrial district which blocks all view of the storage area at or beyond the property line. The fence shall be provided by one of the following methods:
 - (1) a wood and/or masonry fence, at least 50% opaque, 6 feet in height;
 - (2) a vegetation fence capable of providing a substantially opaque barrier and attaining a height of 6 feet within 3 years of planting;
 - (3) a landscaped earth berm with a maximum slope of 3 to 1 vertical/horizontal, no more than 6 feet above the existing grade of the property line separating the zoning districts; or
 - (4) any combination of the described methods that achieves a cumulative height of 6 feet.
05. Maintenance. Upon placement of a fence, appropriate measures shall be taken by the fence owner to ensure continued maintenance.

(Ord. #5333; 7/28/97)

15.24.070 Height exceptions. The following types of structures are ~~to~~ not subject to the height limitations of this title: chimneys, church spires, cupolas, elevator shafts, fire and hose towers, observation towers and water towers.

ORDINANCE NO. 5963

AN ORDINANCE to amend Chapter 15.24 “Supplemental Use and Site Development Regulations” of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing and reenacting Section 15.24.040 “Fence regulations” and Section 15.24.070 “Height exceptions”.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 15.24 “Supplemental Use and Site Development Regulations” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing and reenacting Section 15.24.040 “Fence Regulations”, to read as follows:

“15.24.040 Fence regulations. Fences, including masonry walls, vegetation, ornamental iron, chain link, open wood, solid wood or metal, forming a physical barrier, placed on private property, used for any purpose shall conform to the following requirements:

(1) General Requirements For All Zoning Districts.

(a) No fence placed on any lot shall project over the property line. No fence or obstruction shall be placed in the public right-of-way.

(b) The height of a fence shall be measured from the grade on which the fence is placed.

(c) The finished side of any fence shall be directed toward the street right-of-way and adjoining properties.

(d) No fence or any other obstruction shall be placed within an equilateral triangle having sides of thirty-five (35) feet each running along the edge of the pavement, or curb if present, of each abutting street. The apex of this triangle shall be at the point of the intersection of the edges of the pavement or curbs of such streets when extended out to a point.

(e) No fence shall be placed within three feet of a fire hydrant. No fence shall block visibility or access to a fire hydrant from the street.

(2) General Requirements For Open Space/Recreation and Industrial Districts.

(a) A fence placed in any yard shall not exceed eight feet in height.

(b) In I-2 and I-3 Districts when the parcel is 50 contiguous acres or more, a fence not to exceed 10 feet in height is permitted in the interior, street side and rear yards. In the front yard, the height of the fence shall not exceed 8 feet unless its placement meets the setback requirements for structures. Fencing material for a 10 foot tall fence shall be limited to vinyl coated chain link material with no sharp or pointed projections or barbed wire strands permitted.

(c) Barbed wire fences zero to six feet in height are permitted in A-1 and A-2 districts for agricultural uses only.

(d) Security fences with sharp or pointed projections or containing barbed wire

strands are allowed in the A-2, I-1 ~~and I-2, and I-3~~ districts if placed atop a conforming fence of at least six feet in height, with total fence height not to exceed eight feet.

(e) Electrically-charged fences located within the boundaries of a conforming fence are permitted in A-1, A-2, I-1 ~~and I-2~~ and I-3 districts for agricultural uses only.

(3) General Requirements for Residential and Commercial Districts.

(a) In a front yard or a street side yard, the height of a fence shall not exceed 4 feet, unless its placement meets the setback requirements for principal and accessory structures. Exception: ornamental iron fences located in front or street side yards may exceed four foot in height, but are limited to six feet in overall height.

(b) No solid fence shall be placed within a front yard or street side yard which creates a safety hazard by obstructing the clear view of pedestrians or vehicles.

(c) In an interior side yard or rear yard, the height of a fence, excepting vegetation fences, shall not exceed six feet. Fences in residential areas proposed to exceed six feet in height shall be reviewed on a case by case basis by the mayor or designee.

(d) Security fences with sharp or pointed projections or containing barbed wire strands may be permitted in a C-2 District when placed on top of an otherwise conforming fence, if the following conditions are met:

(i) The site shall not abut any residential district; and

(ii) The use shall comply with all requirements for conforming uses and the site development regulations in a C-2 District.

(4) Required Fences.

(a) A fence shall be required where any conforming commercial or industrial use abuts a residential district. The fence shall be provided at the abutting side and rear property lines. A fence shall also be required for any open storage area in an industrial district which blocks all view of the storage area at or beyond the property line. The fence shall be provided by one of the following methods:

(i) A wood and/or masonry fence, at least fifty (50) percent opaque, six feet in height;

(ii) A vegetation fence capable of providing a substantially opaque barrier and attaining a height of six feet within three years of planting;

(iii) A landscaped earth berm with a maximum slope of three to one vertical/horizontal, no more than six feet above the existing grade of the property line separating the zoning districts; or

(iv) Any combination of the described methods that achieves a cumulative height of six feet.

(5) Maintenance. Upon placement of a fence, appropriate measures shall be taken by the fence owner to ensure continued maintenance.

SECTION 2. That Chapter 15.24 “Supplemental Use and Site Development Regulations” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing and reenacting Section 15.24.070 “Height exceptions”, to read as follows:

“15.24.070 Height exceptions. The following types of structures are ~~to~~ not subject to the height limitations of this title: chimneys, church spires, cupolas, elevator shafts, fire and hose towers, observation towers and water towers”.

SECTION 3. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. (Ord. 5367 § 1 (part), 1998; Ord. 5333 § 1, 1997, (Ord. 5323 § 4 (part), 1997).

SECTION 4. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN Mayor

Attest:

JUDITH RIDGELEY City Clerk

First Consideration: January 14, 2008
Second Consideration: January 28, 2008
Public Hearing: January 28, 2008
Third Consideration: _____

Planning Case ZT-07-006

COUNCIL COMMUNICATION

Department: Public Works
Case/Project No.: FY09-05C
Applicant _____

Ordinance No. _____
Resolution No. 2008-19

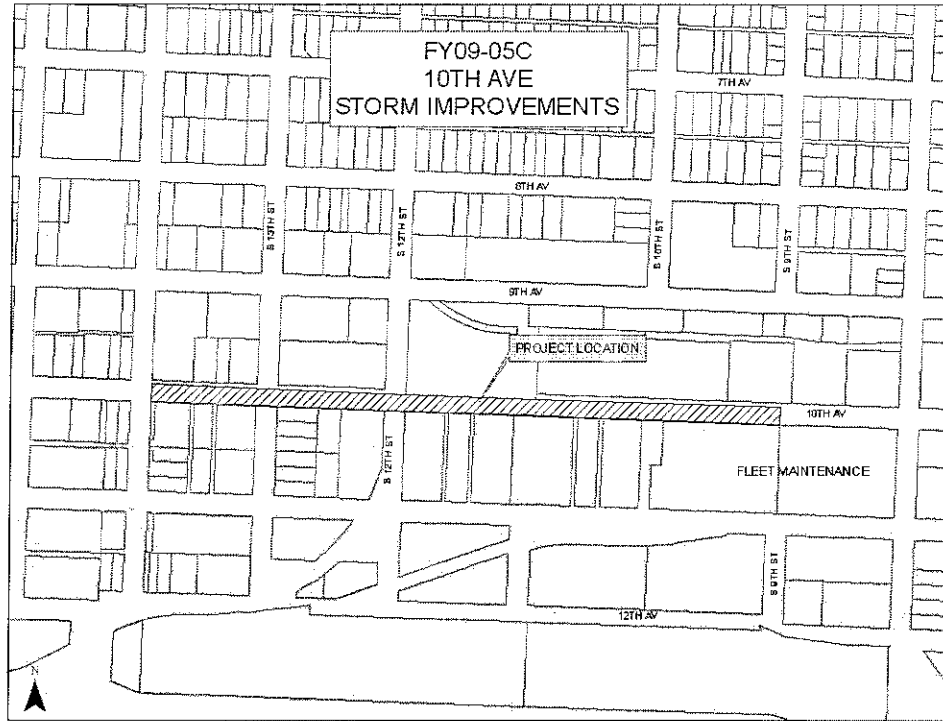
Council Action: January 28, 2008

SUBJECT/TITLE

After the Public Hearing council consideration of a resolution approving the plans and specifications and authorizing the City Clerk to advertise for bids setting February 28, 2008 at 10:00 a.m. as the date and time for the bid opening for 10th Avenue Storm Sewer Improvements.


BACKGROUND/DISCUSSION

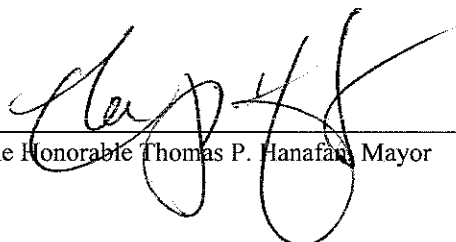
- The city is proposing to construct a new fleet maintenance facility on 10th Avenue near 9th Street. This location is a part of the city owned property which extends from 8th Street to 12th Street between 11th Avenue and 10th Avenue. The site has been masterplanned for the eventual relocation of all public works facilities to this location. Currently the existing old CO-OP building is occupied by pump station maintenance division and the Parks Department's building maintenance division.
- There is no storm sewer in 10th Avenue and drainage in the area is very poor.
- This project involves construction of a storm sewer in 10th Avenue from Indian Creek to 9th Street.
- The project will also include a water main extension. The site currently is not served by existing water main.
- This project is in coordination with the proposed new fleet maintenance facility. Site prep work for that project is to be done this winter. The construction of the fleet building is scheduled to start in the spring of 2008.
- This is project FY09-05C in the CIP and has a budget of \$500,000 in sales tax funds. The project is scheduled for 2008 construction.



RECOMMENDATION

Approval of the resolution.


Greg Reeder, Public Works Director/City Engineer


The Honorable Thomas P. Hanafan, Mayor

RESOLUTION
NO. 2008-19

**RESOLUTION APPROVING THE PLANS, SPECIFICATION,
FORM OF CONTRACT AND COST ESTIMATE FOR THE
10TH AVENUE STORM SEWER
IMPROVEMENTS
FY09-05C**

WHEREAS, the plans, specification, form of contract and cost estimate are on file in the office of the City Clerk of the City of Council Bluffs, Iowa for the 10th Avenue Storm Sewer Improvements; and

WHEREAS, A Notice of Public Hearing was published as required by law, and a public hearing was held on January 28, 2008.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the plans, specifications, form of contract and cost estimate are hereby approved for the 10th Avenue Storm Sewer Improvements and the City Clerk is hereby authorized to advertise for bids for said project.

ADOPTED
AND
APPROVED: January 28, 2008

Thomas P. Hanafan, Mayor

ATTEST:

Judith Ridgeley, City Clerk

Council Communication

Department: Community Development Applicant: John and Margaret LaBounty 109 Pearl Street, Council Bluffs, IA 51503 Case #ENC-08-001	Resolution of Intent No. _____ Resolution to Grant No. <u>2008-20</u>	City Council: 01-28-08 Planning Commission: 01-8-08 Set Public Hearing: 01-14-08 Public Hearing: 01-28-08
Subject/Title		
Request to encroach into the public right-of-way located adjacent to 109 Pearl Street to allow reconstruction of the primary building entrance and to construct an ADA compliant access ramp.		
Background		
<p>The applicant purchased the property at 109 Pearl Street for residential and commercial use. In order to accommodate commercial use on the first floor the structure must be handicap accessible. Because the structure extends from lot line to lot line there is no additional lot area to construct an ADA compliant ramp. The building levels do not correspond to the sidewalk grade making the first floor level higher than the sidewalk elevation.</p> <p>A policy is currently under review to address intrusions into the public way, which result in improved access to existing buildings when public pedestrian circulation can be preserved.</p> <p>The owners intend to renovate the structure to resemble its original appearance as the Nonpareil building. A copy of an early photograph is attached. The applicant proposes to replace the original entry stairs thereby addressing the grade difference on the Pearl Street side and to install an ADA compliant ramp on the South Main Street side.</p>		
Discussion		
<ol style="list-style-type: none"> 1. The proposed entry on Pearl Street appears to meet the guidelines of the pending policy and appears to be sympathetic to the original building design and the materials currently in use. 2. The proposed ADA ramp does not appear to relate to the building materials of the current building. The ramp is modular in construction and does not include masonry products. The ramp is bolted together and fixed to the existing sidewalk, presenting a temporary appearance. A mesh material will be attached underneath the ramp to act as screening. The ramp does not aesthetically relate to the building. 3. The applicant has not demonstrated other alternatives to relieve the need to encroach into the South Main Street right-of-way. Other alternatives may be to install a lift to reach the first floor level, which may require the use of less City right-of-way. It may be possible to internalize the access ramp into the building removing the need for a public encroachment. 4. If an easement is granted, it will be for a permanent encroachment. Any improvement allowed should be made of materials complementary to the structure and be of lasting quality. 5. The applicant stated that the ramp will be powder coated in a black or very dark grey color. The ramp deck will not be painted. The applicant has indicated that the tubular railing is a good match for railings used during the original time period of construction. 6. The applicant states that the ramp system they propose will be flexible for sidewalk heaving related to frost. They also indicate that a local fabricator quoted approximately \$22,000 to build a metal ramp. 7. Water Works has indicated that water service to the building is on Main Street. The stop box is located 8 feet east of the east wall of the building. Any adjustments or the stop box or service line must be done by the property owner. 		

Recommendation

The Community Development Department recommends:

- 1) Granting a permanent easement to allow the reconstruction of the entry on the Pearl Street side as depicted in Attachment 'A', subject to submission of a plat of survey exhibit; and
- 2) Denial of the requested easement on the South Main Street side to allow a ramp constructed of materials as shown in Attachment 'B'.
- 3) Payment in an amount as determined by the City Council for the granted easement.

Public Hearing

John LaBounty, 109 Pearl Street appeared before the Planning Commission in favor of the request. No one appeared in opposition.

Planning Commission to City Council

The Planning Commission recommends:

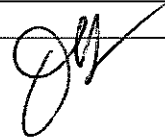
1. Granting a permanent easement on the Pearl Street side as depicted in Attachment 'A', subject to submission of a plat of survey exhibit.
2. Granting a permanent easement on the South Main Street side with authority to City staff to approve the final design and material, which shall compliment the historic nature and architecture of the building as shown in Attachment 'B'.
3. Payment in an amount as determined by the City Council for the easements.

VOTE: Aye 8 Nay 0 Abstain 0 Absent 2 Vacant 1 Motion Carried.

Attachments

Attachment A: Proposed encroachment design as submitted by the applicant;
Attachment B: Ramp type and screening mesh examples as provided by the applicant;
Attachment C: Historic photograph

Prepared by: Rose Brown, Urban Planner, Community Development Department



Return to: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503 - Phone: 328-4616
Prepared by: Community Development Dept., Council Bluffs, IA 51503 - Phone: 328-
4629

RESOLUTION NO. 2008-20

A RESOLUTION TO GRANT AN EASEMENT AND CONVEY CERTAIN PROPERTY RIGHTS IN THE PEARL STREET AND SOUTH MAIN STREET RIGHTS-OF-WAY ADJACENT TO LOT 3, BLOCK 9, BAYLISS 1ST ADDITION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, following public hearing and having given careful study to the proposal, the City Council determines that city-owned property described 'Exhibit A' located in the City of Council Bluffs, Pottawattamie County, Iowa, is of limited benefit to the public and an easement can be granted; and

WHEREAS, pursuant to Iowa Code Section 354.23, the City Council declares its intent to dispose of this easement on City right-of-way by granting and conveying an interest in it to the abutting property owner(s); and

WHEREAS, City of Council Bluffs, a municipal corporation of the State of Iowa, and its agents, contractors and assigns, a permanent easement for ROW encroachment improvement for the purposes of constructing, reconstructing, repairing, and maintaining a ROW encroachment improvement together with necessary appurtenances thereto, in, to, on, over, and across the following described real estate see exhibit "A" easement plat.

WHEREAS, this easement conveyance is subject to the reservation of the following terms and conditions:

Erection of structures prohibited: grantee or successors or assigns shall not erect any structure over or within the easement area without obtaining prior written consent of the city engineer,

Change of grade prohibited: grantee or successors or assigns shall not change the grade, elevation, or contour of any part of the easement area without obtaining the prior written consent of the city engineer,

Right of access: grantee shall have the right of access to the easement area

and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the easement area described.

Removal and Replacement: The cost of removal and replacement of any unauthorized improvement or structure within the easement area, necessitated by the exercise of the rights under this easement, shall be borne by the grantee or their successors or assigns.

Duty to repair: grantee or successors or assigns agrees that any Curb, walk or other city improvement outside of the easement area which may be damaged as a result of any entry made through the exercise of the grantee's right of access shall be repaired at no expense to the grantor.

Duty to Maintain: grantee or successors or assigns agrees that any row encroachment improvement must be maintained in good working order for its intended use. Maintain shall include ensuring improvement is not in violation of the municipal code.

Indemnity: Grantee hereby agrees to indemnify and hold Grantor harmless from and against any and all loss, damage, or liability they may sustain by virtue of the activities of the grantee conducted pursuant to this easement on the property owned by grantor.

WHEREAS, Grantor Reservation: Grantor reserves the right to use the Easement Area for the maintenance of any and all utilities equipment presently in place, and for such reconstruction, re-emplacement and repair thereof which said Grantor and its licensees and/or franchise grantees may in the future deem necessary and proper and for the removal of any improvements emplaced thereon by the grantees, or their successors or assigns, necessitated by the reconstruction, re-emplacement, or repair of such utilities, such removal to be at the sole expense of grantees or their successors or assigns and without cost to the grantor, its licensees and/or franchise grantees, and without obligation to repair or replace such improvements, and subject to any and all other easements and right-of-way of record and those not of record

WHEREAS, Easement Sunset: this easement shall be deemed to run with the land and shall be binding on grantor and grantor's successors or assigns with granting annually, automatically renewed unless either party desires a change in the easement. Annual renewal anniversary shall be considered this instrument county filing date. Release of Easement shall be required by grantor if city finds either 1) failure of the grantee to abide by the ROW encroachment terms and conditions, 2) ROW encroachment improvement is no longer used for its intended use. Release of Easement shall be required by grantor if City Council finds either sunset condition is met.

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That the easement, as described on 'Exhibit A' subject to the conditions set out above, is on city right-of-way and is hereby granted and conveyed as follows:

John M. and Margaret V. LaBounty, and all successors in interest: Easement area as shown on 'Exhibit A' for the sum of \$_____.

BE IT FURTHER RESOLVED

That the Mayor and the City Clerk be and are hereby authorized, empowered and directed to record a resolution along with a plat of survey granting an easement and conveying the City's interest in the above-described property for the consideration of the sum above; and

BE IT FURTHER RESOLVED

That the City Clerk is directed to deliver this resolution and attached documents to the County Recorder according to Iowa Code 354.23.

ADOPTED

AND

APPROVED: January 28, 2008

Thomas P. Hanafan, Mayor

ATTEST:

Judith H. Ridgeley, City

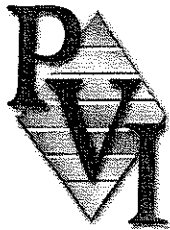
Clerk
STATE OF IOWA)
COUNTY OF)ss
POTTAWATTAMIE)

On this ____ day of _____, before me the undersigned, a Notary Public in and for said County and said State, personally appeared Thomas P. Hanafan and Judith H. Ridgeley, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk respectively, of the said City of Council Bluffs, Iowa, a Municipal Corporation, that the seal affixed hereto is the seal of said Municipal Corporation; that said instrument was signed and sealed on behalf of the said City of Council Bluffs, Iowa, by authority of its City Council; and that said Thomas P. Hanafan and said Judith H. Ridgeley, as such officers, acknowledged the execution of said

instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

Notary Public in and for said State

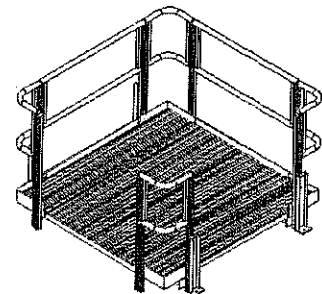
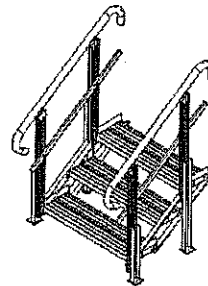
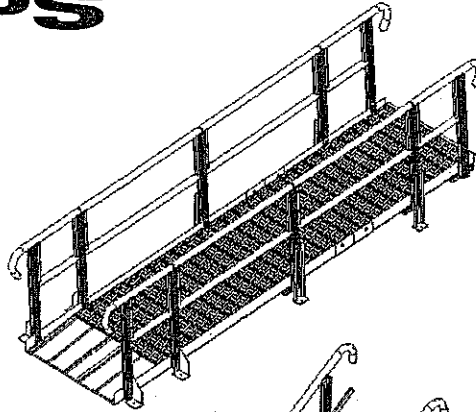
Planning Case #ENC-08-001



prairie view industries, inc.
RAMPS

access ramps

MODULAR SYSTEM



FEATURES

- for residential and commercial use.
- ADA compliant.
- little to no maintenance.
- all aluminum construction.
- ADA handrail extensions, guardrails and gates available.
- optional handrail designs available upon request.

DETAILS AND SPECIFICATIONS

- 45 and 90 degree turns and switchbacks available.
- little or no site preparation required.
- assembles quickly and easily with common hand tools.
- easily moved or reconfigured.
- load capacity is 100 lbs. per square foot.

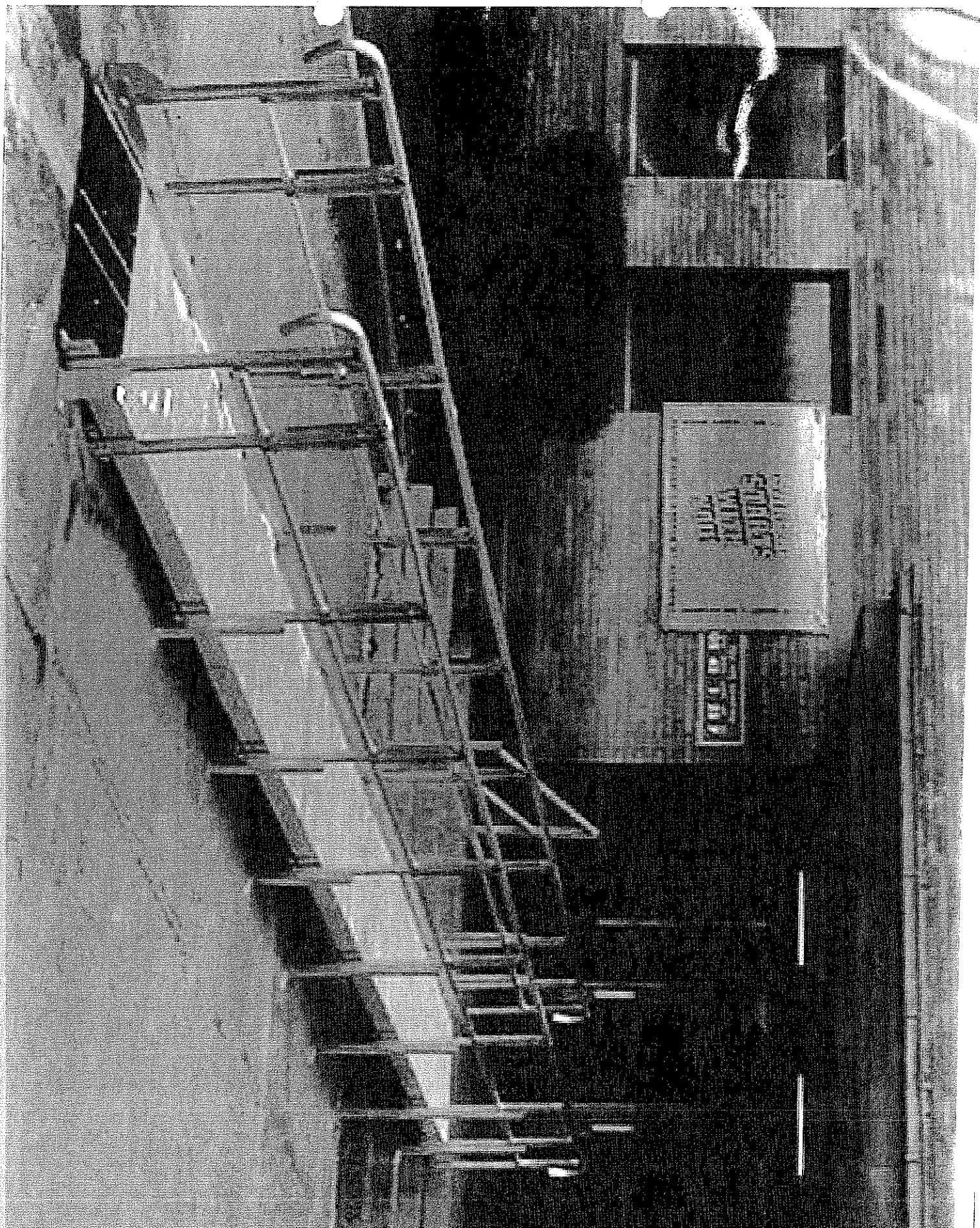
MODULAR SYSTEM	
Width	36"
Length	As required - 4' minimum
Load Capacity	100 lbs. per square foot
Slope	Adjustable - as required
Floor	Slip resistant grooved aluminum
Edge Protection	2" curb
Handrails	Double 1 1/2" bar - standard height 36" - 38"
Multiple configurations possible - can meet many needs.	

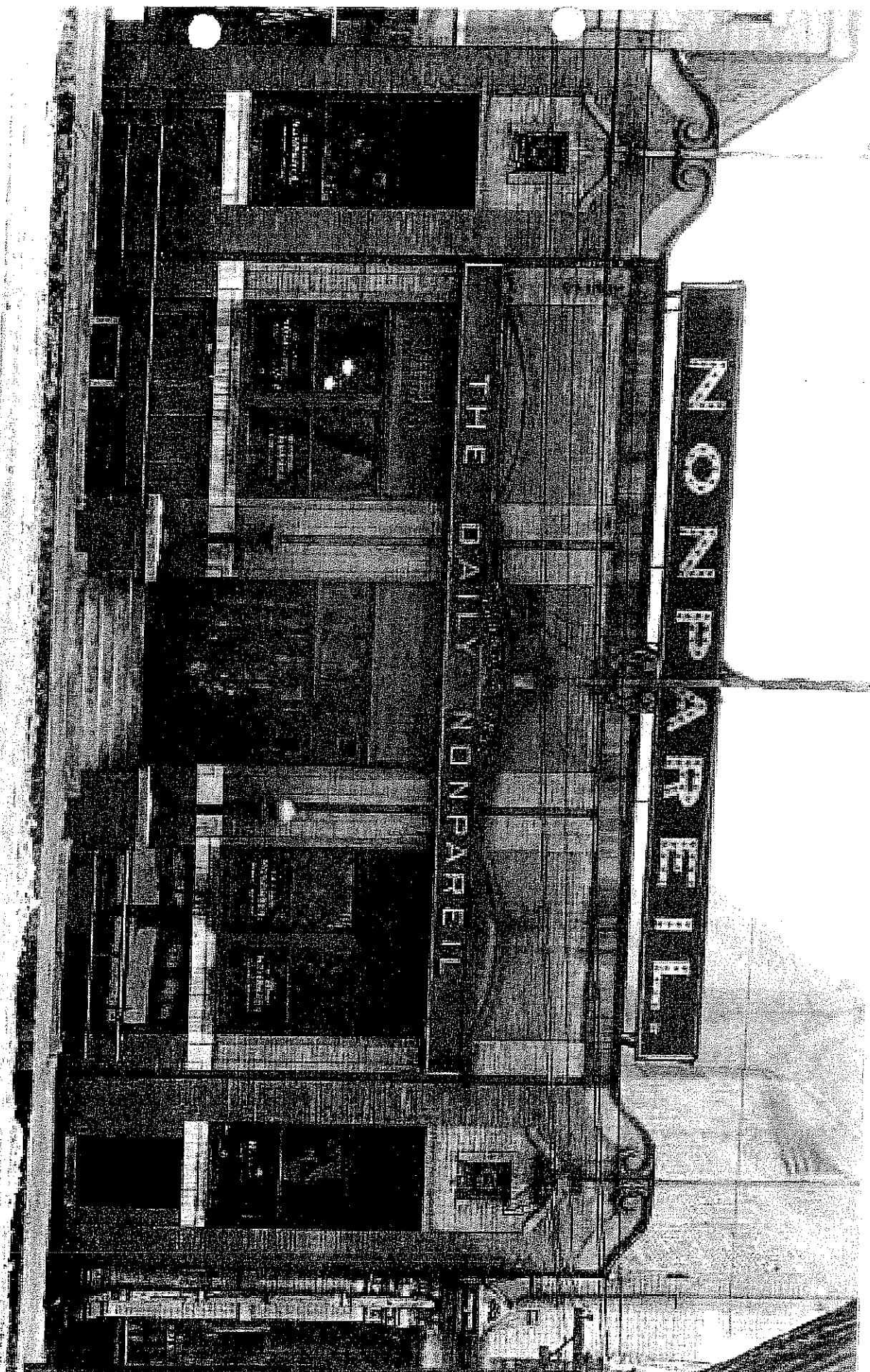
Item #:

Model #:

Project #:

Quantity #:



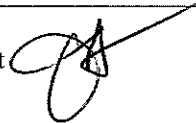


Council Communication
January 14, 2008 City Council Meeting

Department: Community Development Case/Project No.: N/A	Ordinance No.: <u>5964</u> Resolution No.:	First Reading: <u>01/14/08</u> Second Reading: <u>1/28/08</u> Third Reading: Public Hearing:
Subject/Title		
Repeal of Municipal Code Chapter 2.06 "Partial Property Tax Exemptions for Industrial Property"		
Background/Discussion		
<u>Background</u> In 1980, the Iowa Legislature adopted legislation permitting cities to enact ordinances granting partial property tax exemptions to industrial properties upon which improvements have been made. As a result, City Council adopted Ordinance No. 4319 on May 12, 1980 establishing "Partial Property Tax Exemptions for Industrial Property." This ordinance provided a partial exemption of property taxes for a period of five years (75% - year 1, 60% - year 2, 40% - year 3, 30% - year 4 and 15% - year 5). This ordinance was later amended by Ordinance No. 5427 on November 9, 1998 adding additional uses such as research service facilities, warehouse and distribution centers.		
<u>Discussion</u> This chapter for property tax exemption has been used on a very limited basis and staff recommends repealing the ordinance. Concerning to staff is the fact that this exemption doesn't give the City any control over development, potentially leading to inadequately served or undesirable development. Currently, an eligible property owner would make a direct application to the County Assessor's Office. Property tax abatement can be provided to eligible projects through a variety of other programs, such as urban renewal, urban revitalization and enterprise zone. Not only do these programs offer more flexibility on incentives, they also have a more substantive review process to better ensure sustainable development.		
Staff Recommendation		
The Community Development Department recommends repeal of the Municipal Code Chapter 2.06 "Partial Property Tax Exemptions for Industrial Property."		
Attachments		
Ordinance and Municipal Code Chapter 2.06		

Submitted by: Brenda Carrico, Program Coordinator, Community Development Department
Approved by: Donald D. Gross, Director, Community Development Department

GA



ORDINANCE NO. 5964

AN ORDINANCE to amend Title 2 "Revenue and Finance" of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing Chapter 2.06 "Partial Property Tax Exemptions for Industrial Property" in its entirety.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Title 2 "Revenue and Finance" of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Chapter 2.06 "Partial Property Tax Exemptions for Industrial Property", in its entirety.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. Severability Clause. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

First Consideration: January 14, 2008
Second Consideration: January 28, 2008
Public Hearing: n/a
Third Consideration: _____

Council Communication

Department: Legal	Ordinance No.	First Reading <u>1/14/08</u>
Case/Project No.	Resolution No. <u>5965</u>	Second Reading _____
Applicant.		Third Reading _____
Subject/Title		
<p>The Council Bluffs Airport Authority currently has a nine member board whose terms all expire at the same time. The Mayor is proposing that a stagger be established for the expiration of board member's terms. An ordinance that accomplishes this has been prepared.</p>		
BACKGROUND		
<p>When the Airport Authority was initially established, there was no stagger established in the appointments. It is generally seen as beneficial to have a stagger in the terms of board members, so that all institutional knowledge is not lost at one time.</p>		
Recommendation		
<p>It is the recommendation of the Mayor and the City Attorney that the ordinance before the Council addressing these matters be approved.</p>		

Richard Wade

Department Head Signature

Mayor Signature

6 B

ORDINANCE NO. 5965

AN ORDINANCE to amend Chapter 1.68 "Council Bluffs Airport Authority" of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing Section 1.68.020 "Board" and enacting a new Section 1.68.020 "Board", to establish a stagger in the member's terms.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 1.68 "Council Bluffs Airport Authority" of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 1.68.020 "Board" and enacting a new Section 1.68.020 "Board", to read as follows:

"1.68.020 Board. (a) The Council Bluffs airport authority board shall be composed of nine members who shall be appointed by the mayor, with the concurrence of a majority of the city council. They shall be eligible electors of Pottawattamie County.

(b) The board shall be the governing body of the authority, exercising all the rights, duties and powers conferred by this chapter on the authority.

(1) ~~Board members shall serve for terms of four years.~~ After the passage of this ordinance, nine board members shall be appointed. Five shall be appointed for three year terms, and four shall be appointed for one year terms. After these appointments, all future appointments shall be for a term of four years.

(2) Each member will qualify by taking an oath to faithfully perform the duties of office.

(3) The board shall within ten (10) days after its appointment, organize by electing a chairperson, a secretary, and a treasurer, each for a term of two years.

(4) Board members and officers shall serve until their successors are duly elected and qualified.

(5) A salary shall not be paid to a board member; however, each board member shall be reimbursed for actual expenses incurred in the performance of the member's duties.

(6) All actions by the authority require an affirmative vote of a majority of the board."

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ordinance No. 5452, Section 1 (part) 1999.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are

severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN Mayor

Attest:

JUDITH RIDGELEY City Clerk

First Consideration: January 14, 2008

Second Consideration: January 28, 2008

Public Hearing: _____

Third Consideration: _____

Council Communication

Department: Legal	Ordinance No. <u>5966</u>	First Reading <u>1/14/08</u>
Case/Project No.	Resolution No. _____	Second Reading <u>1/28/08</u>
Applicant.		Third Reading _____
Subject/Title		
<p>As part of a development agreement between the City Of Council Bluffs and MidAmerican Energy Company (MAE), the Mayor and his staff agreed to support an amendment to the text of the city's noise ordinance. An ordinance to implement the proposed change has been prepared and placed on your agenda.</p>		
BACKGROUND		
<p>During the negotiation of a Development Agreement with MAE, which was prompted by the city's desire to annex land owned by MAE, the city started receiving noise complaints targeting MAE as the problem. Since MAE has made a very significant investment in this community with the expansion of its electric generation facility, this of course caused some concern. In response to the complaints, the city was never able to detect a violation of the ordinance by MAE, but nevertheless agreed to review certain alterations to its noise control ordinance. The result is the ordinance that is on your agenda. This new language has been reviewed, and is supported by the City's Board of Health.</p>		
Recommendation		
<p>It is the recommendation of the Mayor, his staff, and the Council Bluffs Board of Health that this ordinance be approved.</p>		

Richard Wade

Department Head Signature

Mayor Signature

60

ORDINANCE NO. 5966

AN ORDINANCE to amend Chapter 4.50 “Noise Control” of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing Section 4.50.080 “Sound levels by receiving land use” and enacting a new Section 4.50.080 “Sound levels by receiving land use”.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 4.50 “Noise Control” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 4.50.080 “Sound levels by receiving land use” and enacting a new Section 4.50.080 “Sound levels by receiving land use”, to read as follows:

“4.50.080 Sound levels by receiving land use.

8.1 Maximum Permissible Sound Levels by Receiving Land Use. It is unlawful for any person to operate or cause to be operated on private property any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in Table 1 as follows, unless otherwise provided in this chapter, when measured at or within the property boundary of the receiving land use; provided, however, that no measurement of sound levels shall be made less than fifteen (15) meters (fifty (50) feet), or equivalent (Section 4.50.110, Noise Measurement Procedures), from such source of sound.

Table 1
Sound Levels By Receiving Land Use

Sound Emitting Land-Use Category	Sound Receiving Land-Use Category	Sound Level Time of Day	Sound Level Limit, dBA Leq(1)
Residential	Residential	Daytime	55
		Nighttime	45
Business/Commercial	Residential	Daytime	60
		Nighttime	50
Industrial	Residential	Daytime	65
		Nighttime	55
Residential	Business/Commercial	Anytime	60
Business/Commercial	Business/Commercial	Anytime	65
Industrial	Business/Commercial	Anytime	65
Industrial	Industrial	Anytime	75

8.2 Correction for Character of Sound. For any source of sound which emits a pure tone or impulsive sound the Leq(1) sound level limits set forth in subsection (8.1) of this section, shall be reduced by five dBA for any pure tone or impulsive sound. Special instrumentation and measurement techniques are required if a pure tone or impulsive sound is less than five dBA above the background noise level.

8.3 Exemptions. The provisions of this section shall not apply to:

(a) Any of the subsections in Section 4.50.060, except as noted in Section 4.50.060;

(b) Interstate railway locomotives and cars; and

(c) Undeveloped land, farm land and nonstationary farming equipment and all normal agricultural activities.

(d) Notwithstanding Table 1 above, an Electric Utility Generation Facility, as defined in Chapter 15.03 of the Council Bluffs Municipal Code, may generate a decibel reading not to exceed 65 dBA at anytime (day or night) to a receiving land use that is Residential. The level of sound for an Electric Utility Generation Facility shall be measured by using an L90 measurement technique, and for a one hour average. Sound from sources other than the Electric Utility Generation Facility, including but not limited to streets, highways, seasonal insects and other uses, shall not be counted against the ordinance limits.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ordinance No. 4252 § 1 (part), 1978).

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN Mayor

Attest:

JUDITH RIDGELEY City Clerk

First Consideration: January 14, 2008

Second Consideration: January 28, 2008

Public Hearing: _____

Third Consideration: _____

Council Communication

Department: Legal	Ordinance No. Resolution No. <u>5967</u>	First Reading <u>01/14/08</u> Second Reading _____ Third Reading _____
Applicant.		
Subject/Title		
<p>Ordinance amending Chapter 16.04 "Historic Preservation Commission", to allow for its members to reside anywhere in Pottawattamie County if they own property within a locally-designated historical district within the city of Council Bluffs.</p>		
BACKGROUND		
<p>Currently, Section 16.04.040 of the Council Bluffs Municipal Code requires that all appointments to the Historic Preservation Commission be residents of the City. The Commission recently endorsed an amendment to this requirement that would allow a resident of Pottawattamie County to be a Commission member if they own property that is located within a locally-designated historical district.</p>		
Recommendation		
<p>It is the recommendation of the Historic Preservation Commission that Section 16.04.040 be amended to allow this change in qualifications.</p>		

Richard Wade

Department Head Signature

Mayor Signature

60

ORDINANCE NO. 5967

AN ORDINANCE to amend Chapter 16.04 “Historic Preservation Commission” of the 2005 Municipal Code of Council Bluffs, Iowa, by amending Section 16.04.040 “Appointments”.

B E I T O R D A I N E D

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 16.04 “Historic Preservation Commission” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 16.04.040 “Appointments” and enacting a new Section 16.04.040 “Appointments”, to read as follows:

“16.04.040 Appointments. All appointments to the commission shall be made by the mayor, with the approval of the city council as follows:

- (1) The seven members shall be appointed from the duly registered electors residing within the city of Council Bluffs, or registered electors residing in Pottawattamie County that own real property within the city limits of Council Bluffs.
- (2) In making appointments to the commission the mayor shall take the following factors into consideration: historical expertise, expertise in historical architectural styles, expertise in land economics, expertise in engineering, expertise in architecture, expertise in preservation, expertise in law, expertise in real estate, expertise in building restoration, membership in historical society, membership in preservation group, duly licensed in architecture or residence within a historical district, or ownership of property in a historical district.
- (3) At least one member of the commission shall be a person who does not necessarily possess any of the factors as set forth in subsection (2) of this section.”

SECTION 2. REPEALER. All ordinances or parts or ordinances in conflict with the provisions of this ordinance are hereby repealed. These are Ord. 5531 § 5, 2000 and Ord. 5148 § 1 (part), 1993.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN Mayor

Attest:

JUDITH RIDGELEY City Clerk

First Consideration: January 14, 2008

Second Consideration: January 28, 2008

Public Hearing: _____

Third Consideration: _____